

ENTERED

November 20, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BREEN DE BREE,

Plaintiff,

VS.

PACIFIC DRILLING, INC., *et al*,

Defendants.

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CIVIL ACTION NO. 4:18-CV-4711

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Pending before the Court in the above referenced proceeding is Defendant Pacific Drilling Manpower, Ltd's Motion to Dismiss (Doc. No. 31); Pacific Santa Ana Sarl's Motion to Dismiss (Doc. No. 32); Plaintiff's Responses (Doc. Nos. 35, 36); both Defendants' Replies (Doc. Nos. 40,41); Judge Stacy's Memorandum and Recommendation (Doc. No. 47) that the Court grant the Defendants' Motions to Dismiss; and Plaintiff's Objections (Doc. No. 48) to the Memorandum and Recommendation.

The Court has reviewed the case, *de novo*, and agrees with the Magistrate Judge's conclusion that Plaintiff failed to state a plausible claim against these Defendants in light of the foreign seaman exclusion in 46 U.S.C. § 3010(b).

This Court recognizes that Plaintiff has objected because, in part, the Magistrate denied him permission to do factual discovery on general jurisdictional issues and on the law in other jurisdictions. The Plaintiff, however, misstates the court's ruling. The Magistrate Judge denied discovery because Plaintiff could not articulate any factual inquiries that would warrant the proposed discovery request. Courts need more than a request for an unfettered fishing trip to authorize discovery. Plaintiff should have offered the Court a good faith reason that the discovery requested might reveal some relevant information. More importantly, concerning the

issue of the applicable law of the Netherlands or Spain, no discovery is needed. The question of whether a remedy exists—so as to qualify under the exceptions of 46 U.S.C. § 3010(c)—is a matter of legal research—research that should have been performed prior to filing the lawsuit. What the Memorandum and Recommendation points out is that Plaintiff “has not alleged, or even suggested, that a remedy is not available” (Doc. P. 13). Accordingly, it is hereby

ORDERED that Plaintiff Breen De Bree’s Objections (Doc. No. 48) are **OVERRULED**; the Memorandum and Recommendation (Doc. No. 47) is **ADOPTED** and Defendant Pacific Drilling Manpower, Ltd’s Motion to Dismiss (Doc. No. 31) is **GRANTED**; and Defendant Pacific Santa Ana Sarl’s Motion to Dismiss (Doc. No. 32) is **GRANTED**. It is further

ORDERED that this case is **DISMISSED WITHOUT PREJUDICE**.

Entry of this Order shall constitute entry of Final Judgment.

SIGNED at Houston, Texas, this 23rd day of November 2019.



ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE